



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Served: September 24, 2001

Issued by the Department of Transportation
on the 31st day of July, 2001

Application of

SINGAPORE AIRLINES CARGO PTE LIMITED

for a foreign air carrier permit under
49 U.S.C. § 41301

Docket OST-2001-9484- 3

ORDER ISSUING FOREIGN AIR CARRIER PERMIT

Summary

In this order we are issuing Singapore Airlines Cargo PTE Limited (SIA Cargo) an initial foreign air carrier permit, authorizing it to engage in scheduled and charter foreign air transportation of property and mail between Singapore and the United States pursuant to the bilateral aviation undertakings of the United States and Singapore.

Application

By application filed April 19, 2001, SIA Cargo requests that we issue it an initial foreign air carrier permit to conduct all-cargo services between Singapore and the United States consistent with the provisions of the open-skies aviation agreement between the United States and Singapore.¹

SIA Cargo states that it has been designated by the Government of Singapore to perform the proposed services; it is substantially owned and effectively controlled by citizens of Singapore; and it is operationally and financially fit to perform the proposed services.

No answers were filed in response to SIA Cargo's permit application.

¹ On May 22, 2001, we granted SIA Cargo an initial exemption, consistent with the open-skies agreement with Singapore, specifically, authorizing it to engage in (1) scheduled foreign air transportation of property and mail from points behind Singapore via Singapore and intermediate points to a point or points in the United States and beyond; and (2) scheduled foreign air transportation of property and mail between the United States and any point or points; and authority to conduct all-cargo charters in accordance with Part 212 of the Department's rules. See Notice of Action Taken, dated May 22, 2001, in Docket OST-2001-9485.

Decision

We have reviewed the record in this case and have decided to grant the application using simplified Subpart B procedures.¹ The public was informed of the application by notice in the Federal Register and the Department's published weekly list of applications filed.² The notice described the authority sought and gave interested persons an opportunity to submit evidence and objections to the award of the authority. Simplified procedures are appropriate in this case because there are no material determinative issues of fact requiring other procedures.

We find that grant of this foreign air carrier permit is in the public interest, and that SIA Cargo is qualified to conduct the proposed operations.

Public Interest Considerations

During 1997, the United States and Singapore concluded an open-skies bilateral aviation agreement which provides broad rights and other opportunities for the designated carriers of each side, including the all-cargo authority sought by SIA Cargo here.

Operational and Financial Fitness

We find that SIA Cargo is operationally and financially fit to conduct the operations at issue here. SIA Cargo is a newly formed corporation organized under the laws of Singapore. SIA Cargo was created by Singapore Airlines Limited to operate its fleet of freighter aircraft and to market and sell cargo capacity on Singapore Airlines Limited's passenger and combination aircraft.³ SIA Cargo proposes to use B-747 freighter aircraft for its services and will draw qualified flight crews from a common pool of pilots employed by the parent company, Singapore Airlines Limited. SIA Cargo's aircraft maintenance will be identical to that of the parent company. SIA Cargo will initially conduct all-cargo services to those cities currently served with freighter aircraft by the parent company. SIA Cargo has been designated by its government and holds effective authority to conduct the proposed operations.⁴ As noted above, on May 22, 2001, we granted SIA Cargo initial exemption authority to commence scheduled all-cargo services in the Singapore-U.S. market identical to those at issue here. SIA Cargo has experienced management and has had no safety violations, fatal accidents or tariff violations in the last

¹ 14 CFR 302.210 (a)(2) and 302.213.

² 66 FR 22066, May 2, 2001.

³ Singapore Airlines Limited holds Department authority in the form of a foreign air carrier permit issued by Order 97-12-26.

⁴ See diplomatic note (MFA/PD2/240/2000) from Singapore's Ministry of Foreign Affairs, dated January 8, 2001. In addition, SIA Cargo holds an Air Operator's Certificate (No. 5/2001) issued by the Civil Aviation Authority of Singapore on March 29, 2001.

five years.⁵ By memorandum dated May 9, 2001, the Federal Aviation Administration advised us that it knows of no reason why SIA Cargo's request for a foreign air carrier permit should not be approved. Finally, we have verified SIA Cargo's compliance with 14 CFR Parts 203 (Warsaw liability waiver), 205 (Insurance requirements) and 129 (FAA Operations Specifications).

SIA Cargo has provided financial information which indicates that it can conduct the proposed services without jeopardizing passenger or shipper funds. Specifically, the financial information provided by the applicant is that of the SIA Group which includes subsidiary and associate companies. For the year ending March 31, 2000, SIA Group reported total assets of \$ 9 billion; total liabilities of \$ 2.6 billion; and owners' equity of \$ 6.4. For the year ending March 31, 2000, SIA Group reported an operating profit of \$471 million. For the year ending March 31, 2001, SIA Group reported total assets of \$ 9.9 billion; total liabilities of \$ 4 billion; and owners' equity of \$ 5.9 billion. For the year ending March 31, 2001, SIA Group reported an operating profit of \$541 million.

Ownership and Control

We find that SIA Cargo is substantially owned and effectively controlled by the Government and nationals of Singapore. SIA Cargo is a wholly-owned subsidiary of Singapore Airlines Limited. Singapore Airlines Limited is a limited-liability company owned and controlled by citizens of Singapore. The Government of Singapore, through its holding company, Temasek Holdings (Private) Ltd., owns 56.67% of Singapore Airlines' stock. The remaining shares of Singapore Airlines' stock are publicly traded and are held by various individuals and institutions.⁶ All of SIA Cargo's officers, directors and key management personnel, with the exception of two individuals, are citizens of Singapore. SIA Cargo's Senior Manager for Sales and Marketing and its Manager for Corporate Strategy are citizens of Malaysia.

In view of the foregoing, and all the facts of record, we find and conclude that:

1. It is in the public interest to issue SIA Cargo a foreign air carrier permit in the form attached;
2. SIA Cargo is fit, willing and able properly to perform the foreign air transportation described in the attached permit and to conform to the provisions of the Act, and to our rules, regulations, and requirements;

⁵ Singapore Airlines Limited, the parent company, suffered its first commercial fatal accident at Taipei on October 31, 2000. Earlier, on July 21, 1997, a training aircraft was involved in a fatal accident in Thailand.

⁶ Other major stockholders, all corporations of Singapore, include Raffles Nominees Pte Limited (11.92%); DBS Nominees Pte. Ltd. (7.93%); and HSBC (Singapore) Nominees Ltd. (4.72%).

3. The public interest requires that the exercise of the privileges granted by the permit should be subject to the terms, conditions, and limitations contained in the attached permit, and to such other reasonable terms, conditions, and limitations required by the public interest as we may prescribe;
4. The issuance of this foreign air carrier permit will not constitute a “major regulatory action” under the Energy Policy and Conservation Act of 1975, as defined in § 313.4(a)(1) of our Regulations;⁸ and
5. The public interest does not require an oral evidentiary hearing on the application.

ACCORDINGLY,

1. We issue, in the form attached, a foreign air carrier permit to SIA Cargo authorizing it to engage in scheduled foreign air transportation of property and mail (1) from points behind Singapore via Singapore and intermediate points to a point or points in the United States and beyond; and (2) between the United States and any point or points;
2. SIA Cargo is also authorized to engage in all-cargo charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department’s regulations governing charters;
3. The exercise of the privileges granted above is subject to SIA Cargo’s compliance with the conditions listed in Attachment A;
4. To the extent not granted, we deny all requests for relief in Docket OST-2001-9484;
5. Unless disapproved by the President of the United States under § 41307 of Title 49 of the U.S. Code, this order and the attached permit shall become effective on the 61st day after its submission for § 41307 review, or upon the date of receipt of advice from the President or his designee under Executive Order 12597 and implementing regulations that he or she does not intend to disapprove the Department’s order under that section, whichever occurs earlier;⁹ and

⁸ This finding is based on the fact that the grant of this permit will not result in a near-term increase in fuel consumption in excess of 10 million gallons.

⁹ This order was submitted for § 41307 review on July 31, 2001. On September 21, 2001, we received notification that the President’s designee under Executive Order 12597 and implementing regulations did not intend to disapprove the Department’s order.

6. We will serve a copy of this order on Singapore Airlines Cargo PTE Limited; the Ambassador of Singapore in the United States; the Department of State and the Federal Aviation Administration (San Francisco IFO).

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

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Issued by
Order 2001-9-14

UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.

PERMIT TO FOREIGN AIR CARRIER

Singapore Airlines Cargo PTE Limited

A Flag Carrier of Singapore

is authorized, subject to the following provisions, the provisions of Title 49 of the U.S. Code and the orders, rules, and regulations of the Department of Transportation, to engage in scheduled foreign air transportation of property and mail:

- (1) from points behind Singapore via Singapore and intermediate points to a point or points in the United States and beyond; and
- (2) between the United States and any point or points.

The holder shall also be authorized to engage in charter trips in foreign air transportation, subject to the terms, conditions, and limitations of the Department's regulations governing charters.

In the conduct of charter operations authorized above, the holder may, without prior Department approval, carry charter traffic between the United States and a third country point, provided that such charter traffic is carried on a flight that serves Singapore for purposes of carrying traffic between the United States and Singapore.

This permit and the exercise of the privileges granted in it shall be subject to the terms, conditions and limitations in both the order issuing this permit and the attachment to this order, and to all applicable provisions of any treaty, convention or agreement affecting international air transportation now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the holder's homeland are or shall become parties.

This permit shall be effective on September 21, 2001. Unless otherwise terminated at an earlier date pursuant to the terms of any applicable treaty, convention or agreement,

this permit shall terminate (1) upon the dissolution or liquidation of the holder to whom it was issued; (2) upon the effective date of any treaty, convention, or agreement or amendment, which shall have the effect of eliminating the bilateral right for the service authorized by this permit from the service which may be operated by airlines designated by the Government of Singapore (or, if the right is partially eliminated, then the authority of this permit shall terminate in like part); (3) upon the effective date of any permit granted by the Department to any other carrier designated by the Government of Singapore in lieu of the holder; or (4) upon the termination or expiration of the applicable air services agreement between the United States and Singapore. However, clause (4) of this paragraph shall not apply if prior to such termination or expiration, the foreign air transportation authorized herein becomes the subject of another treaty, convention or agreement to which the United States and Singapore become parties.

The Department of Transportation has executed this permit and affixed its seal on July 31, 2001.

By:

SUSAN MCDERMOTT
Deputy Assistant Secretary for Aviation
and International Affairs

(SEAL)

FOREIGN AIR CARRIER CONDITIONS OF AUTHORITY

In the conduct of the operations authorized, the holder shall:

- (1) Not conduct any operations unless it holds a currently effective authorization from its homeland for such operations, and it has filed a copy of such authorization with the Department;
- (2) Comply with all applicable requirements of the Federal Aviation Administration, including, but not limited to, 14 CFR Parts 129, 91, and 36;
- (3) Comply with the requirements for minimum insurance coverage contained in 14 CFR Part 205, and, prior to the commencement of any operations under this authority, file evidence of such coverage, in the form of a completed OST Form 6411, with the Federal Aviation Administration's Program Management Branch (AFS-260), Flight Standards Service (any changes to, or termination of, insurance also shall be filed with that office);
- (4) Not operate aircraft under this authority unless it complies with operational safety requirements at least equivalent to Annex 6 of the Chicago Convention;
- (5) Conform to the airworthiness and airman competency requirements of its Government for international air services;
- (6) Except as specifically exempted or otherwise provided for in a Department Order, comply with the requirements of 14 CFR Part 203, concerning waiver of Warsaw Convention liability limits and defenses;
- (7) Agree that operations under this authority constitute a waiver of sovereign immunity, for the purposes of 28 U.S.C. 1605(a), but only with respect to those actions or proceedings instituted against it in any court or other tribunal in the United States that are:

(a) based on its operations in international air transportation that, according to the contract of

carriage, include a point in the United States as a point of origin, point of destination, or agreed stopping place, or for which the contract of carriage was purchased in the United States; or

(b) based on a claim under any international agreement or treaty cognizable in any court or other tribunal of the United States.

In this condition, the term "international air transportation" means "international transportation" as defined by the Warsaw Convention, except that all States shall be considered to be High Contracting Parties for the purpose of this definition;

(8) Except as specifically authorized by the Department, originate or terminate all flights to/from the United States in its homeland;

(9) Comply with the requirements of 14 CFR Part 217, concerning the reporting of scheduled, nonscheduled, and charter data;

(10) If charter operations are authorized, comply (except as otherwise provided in the applicable bilateral agreement) with the Department's rules governing charters (including 14 CFR Parts 212 and 380); and

(11) Comply with such other reasonable terms, conditions, and limitations required by the public interest as may be prescribed by the Department, with all applicable orders or regulations of other U.S. agencies and courts, and with all applicable laws of the United States.

This authority shall not be effective during any period when the holder is not in compliance with the conditions imposed above. Moreover, this authority cannot be sold or otherwise transferred without explicit Department approval under Title 49 of the U.S. Code (formerly the Federal Aviation Act of 1958, as amended).

